

अण्डमान तथा

Andaman And



निकोबार राजपत्र

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अण्डमान तथा निकोबार प्रशासन

ANDAMAN AND NICOBAR ADMINISTRATION

सचिवालय/SECRETARIAT

**NOTIFICATION**

**Port Blair, dated the 7<sup>th</sup> March, 2007.**

No. 63/2007/F.No. 3-291/2001-Labour.—In pursuance of Sub-Section (1) of Section 17 of the Industrial Disputes Act, 1947 (Act No. 14 of 1947) read with Notification No. LR-1(59)/55 dated 13<sup>th</sup> December, 1955 of the Govt. of India, Ministry of Labour, the Hon'ble Lieutenant Governor, Andaman and Nicobar Islands, hereby orders for publishing the following Award given by the Labour Court, Andaman and Nicobar Islands, Port Blair in the matter of an Industrial Dispute between the Divisional Forest Officer, Baratang and General Secretary, Baratang Forest Workers Union, over regularization of 136 DRMs referred to the Industrial Tribunal, for adjudication vide Administration's Notification No.3-291/01/Labour dated 6/2/2000, subject to the result of the special leave petition No..... of 2006 filed before the Hon'ble Supreme Court.

**IN THE COURT OF THE PRESIDING OFFICER  
INDUSTRIAL TRIBUNAL  
ANDAMAN AND NICOBAR ISLANDS**

Present: **Shri Brindaban Mandal, Presiding Officer  
Industrial Tribunal, Port Blair**

**I.D. Case No. 3 of 2002.**

136 daily rated mazdoors (As per annexure -A)

(under the Divisional Forest Officer, Baratang

represented by the Baratang Forest Workers Union) ----- First Party

-Versus-

The Divisional Forest Officer,

Baratang

..... Second Party

Wednesday, the 13<sup>th</sup> day of July, 2005.

**A W A R D**

1. The present schedule reference was made to this Tribunal under sub-section (1) of section 10 read with sub-section (5) of section 12 of the Industrial Disputes Act, 1947 read with Notification No.LR- 1(59)/55 dated 13<sup>th</sup> December, 1955 of the Government of India, Ministry of Labour, by the lt. Governor (Administrator), Andaman and Nicobar Islands. At the time of making the reference, the referring authority was satisfied as per provision of sub-section(4) of section 12

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of the Industrial Disputes act, 1947 that an industrial dispute exists in between the Divisional Forest officer, Baratang and his workmen numbering 136 (as per annexure-A) represented by the General Secretary, Baratang Forest Workers Union, and the present matter has been referred to this Tribunal to pass an award on the scheduled disputes, which is as follows:-

“(i) Whether the demand of the General Secretary, Baratang Forest Workers Union for regularization of the service of 136 daily rated mazdoors (Annexure – A) by the Divisional Forest Officer, Baratang under “ Casual Labourers (Grant of Temporary Status and regularization) of Government of India, 1993” is legal and justified? If so, what relief the concerned workmen are entitled to?

(ii) Whether the demand of the General Secretary, Baratang Forest Workers Union, Baratang for payment at the rate of 1/30<sup>th</sup> of pay at the minimum of the relevant pay scale plus dearness allowance to these 136 workers as per the office memorandum No. 49014/2/86/Estt (c) dated 7.6.1988 of the Government of India, Ministry of Personnel Public Grievances and Pension, New Delhi is legal and justified? If so, what relief the concerned workmen are entitled to?

2. By filing the written statement of demand the first party workmen contended, inter-alia, that they were initially appointed by the second party Divisional Forest Officer, Baratang on different dates starting from the year 1992 onwards and still they have been continuing on various works under the second party. They have also stated that they have completed 240 days of continuous work under the second party in course of 12 calendar months, but their services have not been regularized against the post available in the office of the second party. They have also not been given any benefit of temporary status as per the scheme introduced by the Government of India vide memo No. 51016/2/90-Estt. (c) dated 1.9.1993. It is also contended that on 16.1.1995 though an interview was held for appointment of regular pay scale mazdoors and though 42 applicants were selected, but unfortunately they were not given the facility of regular pay scale. It is also contended that by virtue of order of the Central Administrative Tribunal as Smti. A.R. Baby completed 240 days of service on daily wage basis, the second party gave all benefits including arrear of pay to her. Again, two workmen of the first party filed OA No. 110/A&N/1999 before the Central Administrative Tribunal, wherein the second party by filing written statement admitted the fact that there was a sanctioned strength of 266 regular pay scale mazdoors and but of which 115 posts were lying vacant. In that case, the Central Administrative Tribunal directed the second party employer to consider the applications of those two applicants for regular appointment as regular pay scale mazdoors. Subsequently, the first party workmen submitted their individual representations to the employer second party requesting him for their appointment on regular basis against the said existing 115 vacant available posts, but the Principal Chief Conservator of Forests by passing order No. E/400 dated 4.8.2000 reduced the strength of workmen under the second party with a view to violate the order passed by the CAT and by that way the second party deprived the workmen from regular employment. It is also contended that the second party did not give regular appointment to any of the 136 workmen. Though the Government of India, Ministry of Personnel and Training, New Delhi issued a memorandum No. 49014/2/86-Estt.(c) dated 7.6.1988, according to which the first party workmen are entitled to get daily wages, but unfortunately that benefit of wages at the rate of 1/30<sup>th</sup> of pay at the minimum of the relevant pay scale + Dearness Allowance for work of 8 hours a day was not extended to the first party workmen. Accordingly, the first party workmen pray for passing necessary order directing the second party to extend the benefit under the Notification of the year 1993 and also of the year 1988 to first party workmen.

3. Earlier by virtue of award dated 17.1.2003, this Tribunal was pleased to give necessary reliefs to the first party workmen, but being aggrieved by and dis-satisfied with the award dated 17.1.2003, the aggrieved party, i.e. the Principal Chief Conservator of Forests and others filed a

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writ petition No. 222 of 2003 against Baratang Forest Workers Union and other before the Hon’ble High Court, Calcutta, Circuit Bench at Port Blair. The Hon’ble Mr. Justice Girish Chandra Gupta of Calcutta High Court, Circuit Bench at Port Blair by disposing of that writ petition held that the award earlier passed by this Tribunal cannot be sustained and sent back the case on remand to this Tribunal with liberty to the second party to file its objection, if any, within six weeks from the date of passing of that order and reply thereto, if any, be filed within four weeks thereafter and directed this Tribunal to dispose of the matter within twelve weeks thereafter. By the

said order, the Hon'ble Court directed the second party to pay costs which was assessed at Rs. 10,000/- within a month from the date of the order.

4. Thereafter the second party appeared and contested the case by filing a written objection. It is contended by the second party in the written objection that the Government of India, Ministry of Personnel, Public Grievances and Pension, Department of Personnel and Training, New Delhi issued a Notification No. 49014/2/86-Estt(c) dated 7.6.1988 for engagement of casual worker in the office of the Central Government. By that Notification the Government has laid down certain guidelines in the matter of recruitment of casual labourers on daily wage basis. It is also contended that the first party workmen could not establish that every one of them was appointed in the year 1992 and were on the role on 1.9.1993 for grant of temporary status as per Government of India's memorandum. As per the notification dated 7.6.1988 in the matter of engagement of casual mazdoors, it is clearly stated that if the nature of work entrusted to the casual workers and regular employees is different, the casual mazdoors may be paid minimum wages under the Minimum Wages Act, 1948 notified by the Administration. But as the first party workmen are engaged for seasonal work, they are only eligible for minimum wages and the first party workmen accepted that condition by availing themselves of the appointment. It is also contended that the first party workmen were never recruited against regular vacancy or regular work and they accepted the conditions mentioned in the appointment order before their joining. The present first party workmen have been allowed to continue their work in the department as they have already crossed the limitation period of 240 days. Their continuation in service due to crossing of 240 days, the limitation period does not change the nature of their work for which they have been engaged. It is also contended that the differentiation of work can be made on various factors like nature of work, volume of work, nature of responsibility attached to the post, minimum education prescribed for the post, experience, reliability etc. Regular mazdoors, in case nature of work, is recruited under the Recruitment Rules for carrying out departmental works such as plantation, NRA etc. every year, but the daily rated mazdoors are engaged only to meet out the additional man power requirement to complete the work. The regular employee in case of volume of work is higher in terms of quantity and quality and it is not same with the casual worker. Regular mazdoors, in case of responsibility and accountability has higher responsibility and accountability and liable for greater penal action in case of any default in discharge of their respective duties. The employer will be able to recover any pecuniary loss caused by them in case of default, but in case of daily rated mazdoors' fault, such an amount of responsibility does not exist. It is also contended that minimum educational qualification. For the post of regular mazdoor is 8<sup>th</sup> Std. desirable as per the recruitment Rules of industrial establishment in the Forest Department, but no such educational qualification is prescribed for the DRMs. The regular mazdoors, in case of experience, possess higher degree of skill/expertise in discharge of official work due to mode of selection, but in case of daily rated mazdoors such amount of experience or expertise may not be available. The service of regular mazdoors in case of reliability, is assured to the employer because of the contract between the Government and the employee by way of terms and conditions mentioned in the appointment order, but the daily rated mazdoors are free to leave service at any time without any notice and he is not duty bound to report. It is also contended that for implementation of the said notification dated 7.6.1988, 1/30<sup>th</sup> of the pay + dearness allowance paid to the employees of the other establishments does not automatically applicable to all industrial establishments as the nature of

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work and standing orders governing the workmen of each industrial establishment is different. Moreover, citing of implementation of the notification dated 7.6. 1988 for the benefit of the Wild Life Division, Campbell Bay cannot hold good for Baratang Division as it is a territorial Division and their nature of works is totally different. In the circumstances, the second party has prayed for dismissal of the claim of the first party.

5. The only point for consideration in the present case is whether the first party workmen are entitled to get the reliefs as prayed for by which the relevant notification dated 6.2.2002 has been sent to this Tribunal for adjudication.

#### Decision with reasons

6. In course of further hearing after getting the case on remand, the P.W. 1 P. Balakrishna has been cross-examined. During cross-examination, the P.W. 1 stated "the necessary records in relation to work entrusted upon us are lying with the office of the opposite party". He also stated in his cross-examination that as they have

been working for a period of 12 years at a stretch, they claim benefit of 1/30<sup>th</sup> of pay + dearness allowance. He also stated that as other wings of the Forest Department have provided such benefit to other employees, they claim to have the same-reliefs. He also stated, “ no appointment order in relation to our employment on daily rated basis has been served upon us. Only 42 persons out of those 121 employees got appointment letter from the employment exchange to serve under the second party”. He also stated in his evidence, “ the nature of their work was elephant mahaut, computer, office assistants, mazdoors etc”.

7. In course of hearing arguments the representative of the first party workmen argued that as the first party workmen have completed more than 240 days, according to the relevant notification dated 7.6.1988, they may be paid wages at the rate of 1/30<sup>th</sup> of pay at the minimum of the relevant pay scale + dearness allowance for work of 8 hours a day from the date of their appointment as daily rated mazdoors till they are conferred with temporary status or brought on to regular scale of pay. He further argued that as the first party workmen have already completed 240 days in course of 12 calendar months, they are also entitled to be conferred with temporary status in terms of Government of India’s Notification dated 1.9.1993, he also argued that considering the vacancy lying in the establishment of the second party, the workers should be regularized according to their seniority in a phased manner.

8. In reply, the representative of the second party argued that the implementation of 1/30<sup>th</sup> of the pay + other allowances to the casual workers of other department does not automatically applicable to all industrial establishment as the nature of work and standing orders governing each industrial establishment is different. Accordingly considering the liability and responsibility as imposed on the first party workmen who are daily rated mazdoors, no relief can be awarded as per notification dated 7.6.1988 of the Government of India. Similarly, the Scheme of temporary status as contained in Government of India’s Notification dated 1.9.1993 is applicable only to those casual labourers who are in employment on the date of issue of the office memo i.e. on 1.9.1993 and who have rendered a continuous service of 240 days in one year.

9. Perused the evidence and the documents filed by the respective parties. Also perused the relevant notification no. 49014/2/86-Estt(c) dated 7.6.1988. It is found in clause (iv) of the said notification that where the nature of work entrusted to the casual workers and the regular employee is the same, the casual workers may be paid at the rate of 1/30<sup>th</sup> of the pay at the minimum of the relevant pay scale + dearness allowance for work of 8 hours a day. The said notification dated 7.6.1988 appears to be the bone of contention of the parties to the present case. The crux of the present controversy is whether the workmen first party are entitled to the benefits of the Notification dated 7.6.1988, as referred to. In order to ascertain whether the first party workmen are entitled to the benefits of the said notification, we are to consider first whether the nature of works entrusted to the casual workers and regular employees is the same or not.

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10. Admittedly all the first party workmen are unskilled daily rated mazdoors. In that case, their nature of duty would be anything of unskilled nature. The contention of the second party is that the first party workmen being daily rated mazdoors were engaged by the second party only for work of casual or seasonal nature to meet the additional requirement of manpower for seasonal works such as raising of nursery, planting of seedlings, plantation etc. with the condition of payment of minimum wages and they had also accepted the same and it is not reasonable on their part to demand higher wages at a later date. In the written statement filed by the second party on 18.5.2004 it has been averred “though the work done by both the DRMs and regular mazdoors may essentially be similar in certain cases, it is not essentially equal for certain reasons”. It is not denied by the second party anywhere that the first party workmen used to be paid their daily wages for their 8 hours of work per day. So, impliedly the second party has admitted that the work done by both the DRMs and regular mazdoors is essentially similar. In the written statement the second party has categorically admitted that both regular mazdoors and daily rated mazdoors were engaged by the second party for raising nursery, planting of seedlings, plantation works, timber extraction work. It has been further admitted in the written statement that the first party were appointed purely on casual basis to meet the additional requirement of man power and that timber extraction work also increases in quantum in summer season for about 3 to 4 months. Thus it appears from the admission of the second party in the written statement that the nature of work entrusted to the first party casual workers and regular employees is the same. Accordingly to clause (iv) of the Government of India Office Memorandum No.

49014/2/86-Estt. (c), dated 7<sup>th</sup> June 1988, where the nature of work entrusted to the casual workers and regular employees is the same, the casual workers may be paid at the rate of 1/30<sup>th</sup> of the pay at them minimum of the relevant pay scale + dearness allowance for work of 8 hours a day. After scanning the both parties case and having regard to the written statement filed by the second party and also having regard to different judgements passed by the appellate authority as well as the Hon'ble Apex Court and also after considering the nature of work performed by the first party workmen. I hold that all the first party workmen are entitled to get the benefit of the OM No. 49014/2/86- Estt (c) dated 7.6.1988 from the date of their respective engagement as daily rated casual workers under the second part for a period till they are regularized. I would like to make it clear that inspite of doing work similar to that of the regular employees if the daily rated mazdoors are deprived of having the relief as per the Government of India's Notification dated 7.6.1998, the very purpose of the notification itself will be frustrated. On careful scrutiny of the entire record with meticulous care I find no evidence as to the date of engagement of each of the first party employees. So, this court is left with no alternative but to hold that the first party employees are entitled to daily wage at the rate of 1/30<sup>th</sup> of the pay at the minimum of the relevant pay scale + dearness allowance for work of 8 hours a day from the date of their respective engagement. The crucial date of their initial engagement if left open to be decided by the second party since the necessary documents in this respect are in the custody of the second party.

11. Let me now consider whether the first party workmen are entitled to be conferred with temporary status under the Scheme " Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Government of India, 1993."

12. I have gone through the said Notification with meticulous care. According to clause 4 (i) of the said Notification, " temporary status would be conferred on all casual labourers who are in employment of the date of issue of the O.M. and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week)". Clause 4 (ii) of the notification says, "such conferment of temporary status would be without reference to the creation/availability of regular Group 'D' posts".

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13. It thus appears that for getting the relief of temporary status, a casual labourer must be in the roll of the second party on the date of issuance of the office memorandum i.e. 1.9.1993 and he should have been engaged for a period of at least 240 days in one year. Until and unless that notification is cancelled or rebutted by any subsequent order of any court of law or concerned authority, the evidentiary value of that notification dated 1.9.1993 would and should prevail. The seniority list of the first party employees who have crossed 240 days in Baratang Forest Division, which has been annexed to the Notification of reference as Annexure - A, remains unchallenged. According to annexure-A to the said notification of reference, Smti Beronica Kujur, who completed 240 days of work on 21.7.1992. Shri Sebastian Lakra, who completed 240 days of work on 11.11.1992, Shri Prasad Tirkey, who completed 240 days of work on 21.11.1992, and Shri Daya Kishore Kujur who completed 240 days of work on 30.12.1992 have already been benefited as per the said notification dated 1.9.1993 and they have already been conferred with Temporary status mazdoors. But though Shri Emil Tirkey who has completed 240 days of work on 25.6.1993 i.e. before the date of notification dated 1.9.1993, unfortunately has not been conferred with temporary status. But on careful scrutiny of the entire record I got materials to say that none of the other first party workman has completed 240 days of work in one year as on 1.9.1993. Accordingly, I hold that Shri Emil Tirkey is also entitled to be conferred with temporary status on and from 1.9.1993 in terms of the O.M. dated 1.9.1993 of the Government of India and that the other first party workmen as appearing in Sl. No. 6 to 139 are not entitled to be conferred with temporary status.

14. Now I come to question whether the first party workmen are entitled to be brought on to the regular scale of pay as regular mazdoors. No evidence has been adduced by either of the parties that there is any vacant post of regular mazdoors lying under the second party. In the absence of any clear vacant post, I am unable to pass any direction for giving regular appointment to the first party workmen and the matter regarding regularization of the first part workmen is left open to be decided by the second party with the observation that the second party will consider the same subject to availability of vacant posts in the department and subject to

their fulfilling the process of recruitment in accordance with the extant Recruitment Rules and the general administrative instructions.

15. It appears from the Order dated 8<sup>th</sup> April, 2005 passed by the Hon'ble High Court, Circuit Bench at Port Blair in W.P. No.113 of 2004 that taking advantage of the pendency of this matter after receipt of the case on remand from the Hon'ble Court, the second party had started recovering the excess amount paid to them consequent upon the award earlier passed by this Tribunal. The Hon'ble Court directed that in the event the first party succeeds before this Tribunal, then the recovered amount shall be paid back by the second party together with interest at the rate of eight percent per annum.

16. Excepting Shri Gurnia Uraon (appearing at Serial No. 21 of Annexure-A) Shri S. Vikraman (appearing at Serial No. 25 of Annexure-A, who was removed from service), Shri Jagdish Kumar Singh (Appearing at Serial No. 35 of Annexure – A), Smti. D. Bharatamma (appearing at Serial No. 52 of Annexure – A), Shri D. Narashima Rao (appearing at Serial No. 53 of Annexure – A), Shri K. Muthu Ramu (appearing at Serial No. 60 of Annexure – A), Shri T. Subramaniam (appearing at Serial No. 73 of Annexure – A, who was removed from service), Shri Eric P. Dhanwar (appearing at Serial No. 81 of Annexure – A), Shri Nirmal Kerkatta (appearing at Serial no. 84 who is since dead), Shri Silestin Xalxo (appearing at Serial no. 95 of Annexure – A). Shri Money Munda (appearing at Serial No. 104 of Annexure – A) , Shri K. Dhannapaiah (appearing at Sl. No. 108 of Annexure – A ). Shri Dhanraj Kerkatta (appearing at Sl. No. 117 of Annexure – A), Shri Mahadev Lohar (appearing at serial No. 119 of annexure – A), Shri Mantu Mondal (appearing at Sl. No. 121 of Annexure – A ), Shri Gopalo Kerkatta (appearing at Sl No. 123 of Annexure – A ), and Shri Punchain Kujur (appearing at Serial No. 127 of Annexure – A), all

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other first party workmen have appeared before the court and filed their respective affidavits in support of their contention. But the first party workmen as mentioned at Sl.No. 21,35,52, 53 60, 81, 95, 104,108, 117, 119, 121, 123 and 127 are found to have been remaining abstained from appearing before this Court. They have also not filed any affidavit stating their demands. Admittedly, the workmen Shri S. Vikraman and Shri T. Subramaniam (at Sl. No. 25 and 73) have been removed from service and the workman Nirmal Kerkatta (at Sl. No. 84) is dead. It is also admitted that the workmen Smti Beronica Kujur, Shri Sebastian Lakra, Shri Prasad Tirkey and Shri Daya Kishore Kujur have already been conferred with temporary status on and from 1.9.1993.

17. Having considered the entire aspects of the matter, this Tribunal comes to the following findings:-

(i) The grievances of the workmen appearing against Sl. Nos. 21, 35, 52, 53, 60, 81, 95, 104, 108, 117, 119, 121, 123 and127 of the Annexure – A hereto enclosed, are left open to the second party to pass appropriate orders in terms of Government of India's office Memorandum of No. 49014/2/86/ Estt. (c) dated 7.6.1988 for granting daily wage at the rate of 1/30<sup>th</sup> of pay at the minimum of the relevant pay scale plus dearness allowance, within a period of one month from the date of publication of this award in the official gazette.

(ii) The workmen appearing at Sl.No. 1 to 4 of the annexure – A hereto annexed are entitled to daily wage at the rate of 1/30<sup>th</sup> of pay at the minimum of the relevant pay scale plus dearness allowance in terms of Government of India's Office Memorandum of No. 49014/2/86 Estt (c) dated 7.6.1988 from the date of the initial engagement till the 31.8.1993. I make it clear such entitlement is actual work of 8 hours a day. The crucial date of their initial engagement as daily rated mazdoor is left open to be determined by the second party since none of the parties has produced any document in this regard.

(iii) The workman Shri Emil Tirkey (appearing at Sl. No.5) has already completed 240 days of continuous work in course of one year is entitled to be conferred with temporary status with effect from 1.9.1993 in terms of Scheme “Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Government of India, 1993 dated 1.9.1993. He is also entitled to daily wage at the rate of 1/30<sup>th</sup> of pay at the minimum of the relevant pay scale plus dearness allowance in terms of Government of India's Office Memorandum of No. 49014/2/86/Estt (c) dated 7.6.1988 from the date of their initial engagement till the 31.8.1993. I make it clear such entitlement is for actual work of 8 hours a day. The crucial date of

his initial engagement as a daily rated mazdoors left open to be determined by the second party since none of the particulars produced any document in this regard.

(iv) All the other 122 workmen appearing at Sl. Nos. 1 to 20, 22 to 24, 26 to 34, 36 to 51, 54 to 59, 61 to 72, 74 to 80, 82, 83, 85 to 94, 96 to 103, 105 to 107, 109 to 116, 118, 120, 122, 124 to 126, 128, 129, 130 to 139 are entitled to get daily wage at the rate of 1/30<sup>th</sup> of pay at the minimum of the relevant pay scale plus dearness allowance in terms of Government of India's Office Memorandum of No. 49014/2/86/Esstt (c) dated 7.6.1988 from the date of their initial engagement till the 31.8.1993. I make it clear such entitlement is for actual work of 8 hours a day. The crucial date of their initial engagement as daily rated mazdoors is left open to be determined by the second party since none of the particulars produced any document in this regard. They are not entitled to be conferred with temporary status in terms of Government of India's Office Memorandum dated 1.9.1993.

(v) The second party shall also comply with the directions of the Hon'ble High Court at Calcutta, Circuit Bench at Port Blair passed on 8<sup>th</sup> April, 2005 in WP No. 113 of 2004.

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(vi) The matter concerning the regularization of the services of the first party workmen, is left open to be decided by the second party with the observation that the second party shall consider the same subject to availability of vacant posts in the department and subject to their fulfilling the process of recruitment in accordance with the extant provisions of the Recruitment Rules and the General Administrative Instructions.

18. Hence,

Awarded

that the demand of the General Secretary, Baratang Forest Workers Union in the present reference is justified to the following extent:-

(i) The grievances of the workmen appearing against Sl. Nos. 21 35, 52 53, 60 81, 95, 104, 108, 117, 119, 121, 123and 127 of the annexure – A hereto enclosed, are left open to be decided by a speaking order by the second party who is directed to pass appropriate orders in terms of Government of India's Office Memorandum of No. 49014/2/86/Esstt (c) dated 7.6.1988 for granting daily wage at the rate of 1/30<sup>th</sup> of pay at the minimum of the relevant pay scale plus dearness allowance, within a period of one month from the date of publication of this award in the official gazette.

(ii) The workmen appearing at Sl. No. 1 to 4 of the annexure – A hereto annexed are entitled to daily wage at the rate of 1/30<sup>th</sup> of pay at the minimum of the relevant pay scale plus dearness allowance in terms of Government of India Office Memorandum of No.49014/2/86/Esstt (c) dated 7.6.1988 from the date of the initial engagement till the 31.8.1993 (as they have been conferred with temporary status on and from 1.9.1993). I make it clear such entitlement is actual work of 8 hours a day. The crucial date of their initial engagement as daily rated mazdoors is left open to be determined by the second party since none of the parties has produced any document in this regard.

(iii) The workman Shri Emil Tirkey (appearing at Sl. No. 5) has already completed 240 days of continuous work in course of one year and he was in the roll of the second party on 1.9.1993 and so, he is entitled to be conferred with temporary status with effect from 1.9.1993 in term so Scheme "Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Government of India, 1993 dated 1.9.1993, he is also entitled to daily wage at the rate of 1/30<sup>th</sup> of pay at the minimum of the relevant pay scale plus dearness allowance in terms of Government of India's Office Memorandum of No. 49014/2/86/Esstt (c) dated 7.6.1988 from the date of their initial engagement till the 31.8.1993. I make it clear that his such entitlement is for actual work of 8 hours a day. The crucial date of his initial engagement as a daily rated mazdoor left open to be determined by the second party since, none of the particulars produced any document in this regard.

(iv) All the other 122 workmen appearing at Sl. Nos. 1 to 20, 22 to 24, 26 to 34, 36 to 51, 54 to 59, 61 to 72, 74 to 80, 82 83, 85 to 94, 96 to 103, 105 to 107, 109 to 116, 118, 120, 122, 124 to 126, 128, 129 to 139 are entitled to get daily wage at the rate of 1/30<sup>th</sup> of pay at the minimum of the relevant pay scale plus dearness allowance in terms of Government of India's Office Memorandum of No. 49014/2/86/Estdt (c) dated 7.6.1988 from the date of their initial engagement till the 31.8.1993. I make it clear that such entitlement is for actual work of 8 hours a day. The crucial date of their initial engagement as daily rated mazdoors is left open to be determined by the second party since none of the parties has produced any document in this regard. They are not entitled to be conferred with temporary status in terms of Government of India's Office Memorandum dated 1.9.1993.

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(v) The second party shall also comply with the directions of the Hon'ble High Court at Calcutta, circuit bench at Port Blair passed on 8<sup>th</sup> April, 2005 in WP No. 113 of 2004.

(vi) The matter concerning the regularization of the services of the first party workmen, is left open to be decided by the second party with the observation that the second party shall consider the same subject to availability of vacant posts in the department and subject to their fulfilling the process of recruitment in accordance with the extent provisions of the Recruitment Rules and the General Administrative instructions.

Let this Award be forwarded to the Lt. Governor (Administrator), Andaman and Nicobar Islands for favour of his information and due publication in the official gazette.

Pronounced in open court and given under my hand and seal of the Tribunal this the 13<sup>th</sup> day of July, 2005.

Typed at my dictation & corrected by me.

Sd/-  
13.07.2005  
P.O.

Sd./-  
13.07.2005  
(Brindaban Mandal)  
Presiding Officer,  
Industrial Tribunal,  
Andaman and Nicobar Islands.

This Award is being published in accordance with the Hon'ble High Court Order dated 12.02.07 in W.P. No. 017/2007 (Baratang Forest Workers Union – Vs – The Lieutenant Governor & Ors.) with the conditions that the above direction for publication of the Award will be wholly without prejudice to the rights and contentions of the parties to the pending Special Leave Petition which has been preferred against the order of the Division Bench of the Hon'ble High Court dated 25.7.2006 and the publication of the Award will also be wholly without prejudice to the rights and contentions of the parties, in his writ petition and if the Award is implemented by the respondents concerned after publication of the Award, that too will abide by the result of the Special Leave Petition and/ or the present writ petition as the case may be.

By order of the Hon'ble Lieutenant Governor,

Sd/-  
(P.P. Sasidharan Nair)  
Assistant Secretary (Labour).

1.	Smti. Beronica Kujur
2.	Shri Sebastian Lakra
3.	Shri Prasad Tirkey
4.	Shri Daya Kishore Kujur
5.	Shri Emil Tirkey
6.	Shri Kaladius Minj
7.	Shri Patras Xaxa
8.	Shri Tarcius Indwar
9.	Shri Deepak Sikdar
10.	Shri Goutam Haldar
11.	Shri Ananda Kr. Sikdar
12.	Shri Prabhat Katchwa
13.	Shri Krishnakant Bain
14.	Shri Siprian Samzhar
15.	Shri Telesphere Dung Dung
16.	Shri Sudgir Malwar
17.	Shri Francias Kispotta
18.	Shri Rama Chowdhary
19.	Shri Telesphore Kujur
20.	Shri K. Dharmaraj
21.	Shri Gurnia Uraon
22.	Shri Nirmal Toppo
23.	Shri Oliver David Bara
24.	Shri Ignance Tirkey
25.	Shri S. Vikraman
26.	Shri Emil Tirkey
27.	Shri Ayjub Topno
28.	Shri Theophil Kerketta
29.	Shri Philip Toppo
30.	Smti. Laxmiamma
31.	Shri Laxman Barraik
32.	Shri Prem Chand Bhengra
33.	Shri Etwa Barla
34.	Shri Joseph Minj
35.	Shri Jagdish Kr. Singh
36.	Shri George Lakra
37.	Shri Fedrick Ekka
38.	Shri Cjlgu Beck
39.	Shri Johan Walter Kujur
40.	Shri Selbrius Kispotta
41.	Shri Krishan Barraik
42.	Shri Raju Malwar
43.	Shri Augustus Kindo
44.	Shri Birsa Uraon
45.	Shri Sohan Ram

50.	Shri Alexius Barla
51.	Shri R. Jay Kumar
52.	Smti D. Bharatamma
53.	Shri D. Narashima Rao
54.	Shri Marcel Topno
55.	Shri Khokan Mistry
56.	Shri Bhaiya Ram
57.	Shri Telespher Lakra
58.	Shri Sudhansu Bala
59.	Shri Suresh Sikdar
60.	Shri K. Muthu Ramu
61.	Shri Victor Toppo
62.	Shri Lucas Barla
63.	Shri Bablu Biswas
64.	Shri Keshab Haldar
65.	Shri Ranjit Biswas
66.	Shri Sachin Mistry
67.	Shri Johan Ekka
68.	Shri D. Duravasulu
69.	Shri Anand Kr. Lakra
70.	Shri R. Sanjeet Trikey
71.	Shri Fabian Kispotta
72.	Shri Marcel Kispotta
73.	Shri T. Subramaniam
74.	Shri Bhusshan Kerketta
75.	Shri Dharam Kishor Kujur
76.	Shri Ghuram Kujur
77.	Shri Vijay Kumar
78.	Shri John Minj
79.	Shri Praduman
80.	Shri Daniel Aind
81.	Shri Eric P. Dhanwar
82.	Shri Gopal Rao
83.	Shri Ramesh Kr. Barailk
84.	Shri Nirmal Kerketta
85.	Shri Gourango Kaldar
86.	Shri Siprian Kujur
87.	Shri Boniface Minj
88.	Shri Albinus Lakra
89.	Shri Dinesh Biswas
90.	Shri Sumamath Munda
91.	Shri Parcan Kr. Barraik
92.	Shri Xavier Karketta
93.	Shri Marcus Tirkey
94.	Shri Pratap Chander Biswas

46.	Shri Ajit Xalxo
47.	Shri Charwa Bengra
48.	Shri Zubier Topno
49.	Shri B. Mohan Rao

95.	Shri Silestin Xalxo
96.	Shri Anup Dhali
97.	Miss Fulmani Bara
98.	Shri Jamesh Tirkey

THE ANDAMAN AND NICOBAR EXTRAORDINARY GAZETTE, MARCH 7, 2007.

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99.	Shri Ranajit Susen Tirkey
100.	Shri K. Papa Rao
101.	Shri Bhanu
102.	Shri Nirmal Tigga
103.	Shri Raram Pal Minj
104.	Shri Maney Munda
105.	Shri Dharma Rao
106.	Shri Puran Kirketta
107.	Shri Sushil Kumar Mirdha
108.	Shri K. Dhanapaiah
109.	Shri R. Balakrishna
110.	Shri Talswar Rao
111.	Shri Daudh Guria
112.	Miss Jospha Xes
113.	Smti. K. Mahalaxmi
114.	Shri Alexius Kullu
115.	Shri Jelgan Ekka
116.	Miss Jeothi Kr. Bara
117.	Shri Dhanraj Kirketta
118.	Shri Ajit Kumar Gari
119.	Shri Mahadev Lohar

120.	Shri P. Velladurai
121.	Shri Mantu Mondal
122.	Shri Peter Kerketta
123.	Shri Gopalo Kirketta
124.	Shri Amitabh Bachan Xaxo
125.	Shri Edmond Kujur
126.	Shri Abhliram Samadar
127.	Shri Punchain Kujur
128.	Shri Nibir Mondal
129.	Shri Thomas Lugun
130.	Shri Ashok Toppo
131.	Shri Khagendra Nath Mondal
132.	Shri Habil Baa
133.	Shri Anil Kullu
134.	Shri Anand Kr. Xalxo
135.	Shri Eshah Prahusay Beck
136.	Shri Dhanraj E.
137.	Shri Hamza
138.	Shri Bala Raju M.
139.	Shri Sanjeet Kumar

Sd/-

13.07.2005

(Brindaban Mandal)

Presiding Officer,

Industrial Tribunal,

Port Blair.

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